

Message

From: Agarwal, Ilena [agarwal.ilen@epa.gov]
Sent: 11/14/2018 9:12:24 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Compilation 11/14/2018

Axios: Generate

Green News: EPA 'appalled' by level of peat extraction at Westmeath site, court hears

E&E News: More than 100 expected to testify at EPA rule hearing

Air Pollution

Ecowatch: Surprise! This EPA Move 'Will Actually Reduce Air Pollution!'

WSJ: Truckers Back EPA Plan to Curb Emissions

Axios: After EPA rollback, a compromise on car standards could be in sight

Indictment

Progressive Pulse: North Carolina's environmental boss, EPA Region 4 administrator Trey Glenn indicted in Alabama

NY Post: EPA official indicted on ethics charges in Alabama

Think Progress: Alabama grand jury indicts Trump's regional EPA administrator on ethics charges

Mic: Trump EPA Official Trey Glenn Indicted on State Ethics Charges

NOLA: Donald Trump's southeast regional EPA administrator indicted on Alabama ethics charges

Science

NY Times: The Assault Against Science Continues at the E.P.A.

Ecowatch: Surprise! This EPA Move 'Will Actually Reduce Air Pollution!'

<https://www.ecowatch.com/epa-tougher-pollution-standards-heavy-duty-trucks-2619682359.html>

Olivia Rosane- Nov. 14, 2018 08:50AM EST

After two years of scandals and deregulatory schemes that rival the machinations of Captain Planet villains, we thought we were immune to being shocked by the actions of Trump's U.S. Environmental Protection Agency (EPA). But the agency has managed to genuinely surprise us—by doing something that could actually benefit the environment.

On Tuesday, acting administrator Andrew Wheeler announced plans to reduce pollution from heavy-duty trucks, launching a Cleaner Trucks Initiative to cut back toxic nitrogen oxide (NOx) emissions.

The announcement won the agency rare praise from environmental and public health groups, The Washington Post reported.

"This is a positive step and may be the first thing this EPA has done that will actually reduce air pollution," American Lung Association Senior Vice President for Public Policy Paul Billings told The Washington Post.

The California Air Resources Board (CARB), which has reason to mistrust this EPA due to its plans to weaken the fuel efficiency standards California has championed, also saw Tuesday's announcement as a positive development.

"It's good that they are moving forward, because heavy-duty NOx is a huge problem, both as a precursor to ozone and fine particles," CARB spokesperson Stanley Young told The Washington Post in an email. "CARB petitioned EPA to begin this process, as have many other state and local agencies, so we are pleased that the agency is moving forward to address the next generation of new heavy-duty engines."

The EPA last updated its NOx standards in 2001, the agency said, so many felt a new push was long overdue. Twenty state and local regulators asked the Obama EPA to update the standards two years ago, and the agency agreed. Tuesday's announcement makes reducing NOx emissions the rare Obama-era commitment the agency has actually moved to honor.

"The U.S. has made major reductions in NOx emissions, but it's been nearly 20 years since EPA updated these standards. Through rulemaking and a comprehensive review of existing requirements, we will capitalize on these gains and incentivize new technologies to ensure our heavy-duty trucks are clean and remain a competitive method of transportation," Wheeler said.

This doesn't mean the agency has seen the light when it comes to the need for regulations to protect the environment. At the same time as he announced the initiative in a call with reporters, Wheeler bragged about the more than two dozen rollbacks Trump's EPA had set in motion, The Washington Post reported.

And there's a chance that the final proposal on NOx emissions—which probably won't be released until 2020—could sneak in some deregulations as well. This language from the EPA announcement is not encouraging:

In addition to NOx emissions standards, the CTI will cut unnecessary red tape while simplifying certification of compliance requirements for heavy-duty trucks and engines. Areas of deregulatory focus will include onboard diagnostic requirements, cost-effective means of reassuring real world compliance by using modern and advanced technologies, the deterioration factor testing process, and concerns regarding annual recertification of engine families. Still, it's a welcome surprise to hear that Wheeler told reporters that the EPA was doing something "because it's good for the environment."

For the first time in two years, the agency has made a move towards doing its job.

Progressive Pulse: North Carolina's environmental boss, EPA Region 4 administrator Trey Glenn indicted in Alabama

<https://pulse.ncpolicywatch.org/2018/11/14/north-carolinas-environmental-boss-epa-region-4-administrator-trey-glenn-indicted-in-alabama/>

By Lisa Sorg 4 hours ago

EPA Region 4 Administrator Trey Glenn, center, at an information and listening session about emerging compounds like GenX, held in Fayetteville earlier this year. Left is DEQ Secretary Michael Regan and right is Peter Grevatt of the EPA's Office of Ground Water and Drinking Water. (File photo: Lisa Sorg)

This past summer, Trey Glenn, the EPA administrator over Region 4, which includes North Carolina, visited Fayetteville for a listening session on GenX and other emerging contaminants. "It's a great time to be an American. It's a great time to work at the EPA," Glenn said in his tone-deaf opening remarks.

It's uncertain how long Glenn's great time at the agency will last. This week an Alabama grand jury indicted Glenn — a Trump administration appointee — on state ethics charges. The allegations stem from his previous work with a law firm that helped a coal company block an EPA cleanup of contamination in a low-income Black neighborhood in north Birmingham. The company, Drummond, was among the parties responsible for the pollution.

Al.com, a paper of record in Alabama, has an excellent story with extensive background on Glenn's misdeeds. A Mother Jones piece also contains juicy details.

Al.com reported that Glenn and former Alabama Environmental Commissioner Scott Phillips worked in tandem to derail the polluted communities' efforts to compel the coal company to clean up the contamination.

From Al.com:

From 2014 through 2017, Glenn and Phillips worked with those defendants [the coal company] to oppose the EPA efforts, court exhibits and trial testimony showed. One exhibit in that trial showed that Phillips proposed to "hijack" a north Birmingham community organization that had been working with the EPA to clean up neighborhoods there. During his testimony, Phillips said that by "hijack" he meant "work with."

Among Glenn's previous scandals: his financial involvement with Big Sky Environmental, responsible for the so-called "poop train."

Again from Al.com:

Big Sky Environmental made headlines this year after it accepted human feces from New York for disposal at its Adamsville landfill. A train that delivered that refuse stunk up the surrounding community and after national news coverage became known as the "poop train."

Mother Jones reported that the EPA didn't respond to requests for comment about Glenn's future at the agency. The great times, though, could soon be over.\

NY Times: The Assault Against Science Continues at the E.P.A.

The agency jettisons expert panels providing guidance on important health and environmental issues.

<https://www.nytimes.com/2018/11/14/opinion/environment-trump-epa-science.html>

By Christopher S. Zarba- Nov. 14, 2018

Mr. Zarba was the staff director of the Scientific Advisory Board at the Environmental Protection Agency until February.

Last month, the Environmental Protection Agency effectively disbanded a scientific panel of experts on microscopic airborne pollutants that helped the agency figure out what level of pollutants are safe to breathe. The agency also dropped plans for a similar panel of experts to help assess another dangerous pollutant, ground-level ozone.

These decisions were the latest assaults on science at an agency that depends on science to protect Americans' health, safety and quality of life.

The disbanded panel on particulate pollution reported to the E.P.A.'s seven-member Clean Air Scientific Advisory Committee, which is responsible for advising the agency on overall air quality standards. Now, without the work of that panel, it is entirely likely that the advisory committee will lack the time and expertise to provide authoritative guidance on the regulation of this pollutant. The same can be said of ground-level ozone.

And that is no small matter. The E.P.A. itself says that numerous studies show that particulate pollution can lead to premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeats, aggravated asthma and decreased lung function. Ground-level ozone can affect the breathing of people with asthma, children, older adults, and people who are active outdoors.

Flawed processes, like eliminating the expertise critical for making informed regulatory decisions, rarely lead to good outcomes. I know, because for the last five years of my 38 years as a scientist at the E.P.A., I was the staff director of the Science Advisory Board, which independently reviews the science behind some of the E.P.A.'s most consequential decisions and policies.

The approach of those committees — transparent and balanced, with meetings that are open to the public to provide opportunities for public input — helped give the public confidence that it is being protected from harm, and industry the assurance that corrective actions are justified and reasonable.

All of that is now in jeopardy as the agency purges scientists from its review panels and purposely disregards scientific research. I chose to retire from the E.P.A. in February, dismayed by the increasingly compromised science review process and the Trump administration's swing away from the agency's core commitments to public health and the environment.

As I said, these are only the latest efforts at the E.P.A. to undermine science. The agency has barred scientists who received E.P.A. research grants from serving on its nearly two dozen scientific advisory committees because of some misplaced concern over conflicts. But it has had no problem appointing scientists to those panels who hold industry-supported research grants.

The agency has also had plans to forbid the use of scientific research to inform rule making if the underlying raw data — like the individual medical records of patients who were guaranteed confidentiality — isn't available for public review. The American Lung Association, Psychological Association, Heart Association and Medical Association and many other independent science groups have denounced this plan.

Sorting out the logic behind these new policies defies reason. The fact is that the agency's Scientific Advisory Board, which was created in 1978 at the direction of Congress to provide scientific advice to the administrator, has had extremely rigorous, issue-specific reviews free of conflicts of interest.

From what I saw, that approach was replaced by a closed-door process in which the agency's political appointees chose advocates for particular positions instead of seeking out impartial scientific expertise to help determine policies. By doing this, the administration has subverted the role of science in the agency's approach on issues.

This has fundamentally hobbled many years of legislative effort, by Republicans and Democrats alike, to protect human health and the environment. The cost will be borne by the American public.

This attack on science and its connection to E.P.A. decision-making reminds me of the desperation of the tobacco industry when it began to be clear that tobacco was dangerous. The industry tried to discredit and marginalize the science by maintaining that the health-effects data was inconclusive. Truth won out, but it was a hard-fought battle. Will we look back at actions the E.P.A. is making today with the same regret and disbelief as we do with tobacco regulation?

Independent, honest science is the backbone of environmental regulation. It also threatens people who want to hide the truth.

Christopher S. Zarba was the staff director of the Scientific Advisory Board and director of the National Center for Environmental Research at the Environmental Protection Agency.

Axios: Generate

<https://www.axios.com/newsletters/axios-generate-d8a63d2d-1d63-4a02-86a7-7ad629c1e140.html>

By Ben Geman- November 14, 2018

Good morning and welcome back! Readers in Columbus, Ohio: Join Axios' Mike Allen tomorrow morning at The King Arts Complex for a breakfast conversation on the future of work.

To hear how jobs are changing, he'll be interviewing: Jamie Dimon, JPMorgan Chase & Co. CEO; Josh Silverman, Etsy CEO; Francis Davidson, Sonder CEO; and Columbus' own Jeni Britton Bauer, of Jeni's Splendid Ice Creams. RSVP here. And, today is part two of my Neil Young birthday celebration (which was Monday), so let's visit another line in the field of time...

1 big thing: Democrats face climate decisions

Incoming Rep. Alexandria Ocasio-Cortez's visit — and high-fives — with climate protestors at House Democratic Leader Nancy Pelosi's office shows both energy and fault lines on the left over how ascendant House Democrats should approach the topic.

Driving the news: Ocasio-Cortez, a rising progressive star, attended the demonstration yesterday by young climate activists with the Sunrise Movement and Justice Democrats.

"This is about uplifting the voice, and the message, of the fact that we need a green New Deal and and we need to get to 100 percent renewables because our lives depend on it," she told reporters, according to several outlets.

The intrigue: Pelosi is already planning to revive some iteration of the select committee on global warming that she set up when Democrats last controlled the House.

But while Ocasio-Cortez welcomed that move, she's calling for steps that go well beyond what Pelosi has committed to doing, at least thus far.

Details: The incoming New York City Democrat, backed by the activists, is circulating a resolution establishing the panel that would give it legislative power.

The resolution instructs the panel to craft sweeping clean energy and climate legislation (the "Green New Deal") by early 2020.

It would require 100% of national power to come from renewables and includes other ambitious energy and industrial decarbonization goals and efficiency measures.

The document says the panel should have wide latitude to construct a federal funding plan, with options such as new public banks devoted to it, public venture funds, and other options that the committee "deems appropriate."

But, but, but: The prior iteration of the committee had no power to write legislation, and Pelosi's office yesterday did not respond to an inquiry on that question.

Pelosi would likely face pushback from senior Democrats about to take the gavels of existing committees if she handed legislative powers to the climate panel.

One hint of that dynamic emerged yesterday...

What they're saying: Politico's Anthony Adragna reports that Rep. Frank Pallone, the likely incoming chairman of the Energy and Commerce Committee, doesn't think it's necessary to revive the climate panel at all.

"We have great people who want to take action on climate change who will be chairing the committees of jurisdiction," he said.

On the substance, look for Democrats to include provisions on low-carbon energy and climate resilience as part of an infrastructure package, which Pelosi mentions in her statement responding the demonstration.

Where it stands: Ocasio-Cortez, in comments to CNN and elsewhere, emphasized that her participation was not a confrontation with Pelosi.

But it's far from clear if Democratic leaders have interest in pushing a sweeping climate bill, especially as they seek to keep their focus on oversight of the Trump administration.

2. The new crude oil landscape

Oil prices ticked up a little this morning after yesterday's steep drop accelerated what has been weeks of declines.

"Crude oil has lost over a quarter of its value since early October in what has become one of the biggest declines since a price collapse in 2014," notes Reuters.

This morning, Brent crude was trading at \$66.25 and WTI crude at \$55.74.

Why it matters: The big drop in prices underscores the ample supplies sloshing around global markets, and traders' view that the supply picture will remain robust despite U.S. sanctions against Iran.

That thinking was underscored this morning when the International Energy Agency, in their monthly oil market report, said big producers have "heeded the warnings" about price spikes and replacing Iranian and Venezuelan barrels.

The world's three largest producers — Russia, the U.S., and Saudi Arabia — are all producing at record levels, IEA said.

The big picture: The IEA report paints a picture of ample and growing supplies relative to demand growth.

They note that global output last month was 2.6 million barrels per day higher than the same time a year ago.

Higher output by big producers and the temporary Iran sanctions waivers the U.S. announced recently point to growing global inventories in the fourth quarter — and even more in the first half of next year, if OPEC output holds steady (which it might not).

But, but, but: Prices could be due for a rebound as OPEC and allied producers — notably Russia — discuss a potential output cut in 2019.

Goldman Sachs analysts, in a new note, said the overall global supply picture "does not justify the magnitude" of yesterday's selloff.

Go deeper: Global Oil Supply to Outstrip Demand on Record U.S., Russia, Saudi Production (WSJ)

3. 1 new old thing: internal combustion engines

Photo of Nissan's VC-turbo engine, which is one of the most advanced internal combustion engines

Nissan's VC-turbo engine is one of the most advanced internal combustion engines ever created. Photo: Nissan

From Joann Muller's Axios Autonomous Vehicles newsletter ... The era of EVs — and with it, AVs — may be dawning, but guess what? "2018 has been a phenomenal year for the humble internal combustion engine," writes Richard Truett in Automotive News.

Why it matters: Even with a flood of new EVs coming to challenge Tesla, fewer than 8% of vehicles will be electrics or hybrids by 2025, up from 2% today, per Automotive News. The rest will still be gasoline-powered cars.

Absent huge consumer demand for EVs, automakers must invest heavily in engine technology to satisfy stricter fuel economy standards set under the Obama administration.

The EPA says average fleet-wide fuel economy improved to a record 24.7 mpg in 2016.

The Obama-era target is about 47 mpg by 2025.

What's happening now: Automakers are investing in new engine architectures and technologies that boost power, reduce emissions and increase efficiency. Some notable innovations cited by Automotive News...

GM launched full-size pickups that can run on just 2 cylinders.

Mercedes-Benz introduced its first new inline 6-cylinder in more than 20 years.

Nissan brought out the industry's first variable-compression engine, which uniquely balances fuel economy and power. What to watch: The Trump administration has proposed freezing emissions standards at 2020 levels, but automakers say even if the mandates are relaxed, they'll keep investing in cleaner, more efficient engines to satisfy global standards and to address consumers' environmental concerns.

4. Making sense of EPA's move on trucks

Illustration of a truck for story about pollution regulations

Illustration: Aida Amer/Axios

Environmental Protection Agency Administrator Andrew Wheeler yesterday announced his plans to review — and likely make more stringent — air pollution standards for heavy-duty trucks, Axios' Amy Harder reports.

Why it matters: This is the first time the EPA under President Trump is looking to significantly tighten — not loosen — air pollution regulations. Most of EPA's focus since the 2016 election has been to roll back environmental rules issued by then-President Obama.

The big picture: Expect this rule to be the exception, not the new norm, of an agency still primarily focused on rolling back the aggressive regulatory agenda of the last president.

Driving the news: Wheeler announced his intent to tighten regulations limiting nitrogen oxide emissions from big trucks.

Nitrogen oxide is a pollutant that contributes to smog and poor air quality.

The current standards haven't been reviewed since 2001.

Yesterday's move was not a formal rule-making step, and EPA officials say the proposal isn't expected until early 2020, with a final version expected by the end of that year — right after the next presidential campaign.

Yes, but: Wheeler and Bill Wehrum, the EPA's assistant administrator for air and radiation, said they don't yet have a specific target in mind for the new standards and may be able to cut pollution without increasing the standard itself.

"One thing we know is these types of vehicles can be made cleaner, lower emitting," Wehrum said.

He went on to say that the rules could be changed in a way that lowers emissions without actually lowering the standard.

He added that the agency would "definitely look to see if the numbers need to come down."

One level deeper: This is an example of industry wanting the EPA to update a standard when they have an administration friendlier to their position than, say, an EPA under President Hillary Clinton might have been.

Wehrum said he's met with many industry groups and companies, adding, "What we have consistently heard, is they think it's time for an update."

State air agencies had asked Obama's EPA to lower the standard, and the agency said it would in late 2016, right after Trump's victory.

Go deeper:

Industry doesn't always fight regulations. Here's why.

EPA brags up lower emissions while Trump doubts climate change

How Trump's EPA will roll back Obama-era methane rules

5. Aftershocks of Washington's CO2 tax defeat

Axios Expert Voices contributor Joshua Rhodes unpacks the rather lopsided loss of a carbon tax ballot question in Washington State. It would have been the first CO2 tax enacted via ballot measure.

The big picture: The carbon tax, which would effectively increase the cost of producing, distributing or using fossil fuels, has emerged as a theoretically promising compromise to people on both sides of the aisle, as it would create a market-based incentive for companies to pursue aggressive action on climate change.

But in practice — and even in a solidly Democratic state — the public appears unwilling to pay for it, at least in the iteration that was on the ballot in Washington State.

Yes, but: There are many ways to enact a carbon tax, and it's possible a different version could pass.

One is a simple tax on carbon emissions that funds other projects — in Washington's case, other environment-related programs and projects.

Another is a revenue-neutral tax, whereby the cost is offset by reductions in some other tax.

The third and perhaps most promising option is the carbon fee and dividend, whereby the government places a tax on carbon emissions and then returns most, if not all, of the revenue to citizens as a dividend to offset the tax.

Between the lines: The carbon fee and dividend would likely have sticking power, given that it already has something of a precedent: In the current fiscal system, the U.S. government taxes our income and then, if it takes too much, cuts us a check every April.

Because people love the idea of getting a check in the mail, the program would likely gain popularity as soon as people got their first carbon dividend, as it did in Canada. But enacting such a scheme would still be an uphill battle.

The bottom line: The U.S. has managed to deploy low-carbon technology with sub-optimal market incentives, such as Renewable Portfolio Standards, federal R&D support and tax credits. Putting a price on carbon, however, remains, at least for now, out of reach.

Joshua Rhodes is a research associate in the Webber Energy Group and the Energy Institute at the University of Texas at Austin.

6. Fires show energy system unprepared for warming

And here's a timely piece from another Axios Expert Voices contributor, the veteran energy analyst Amy Myers Jaffe, who writes ...

The intensity of the wildfires raging in California is just the latest example of climate change's deadly manifestations.

Driving the news: Northern California utility Pacific Gas and Electric (PG&E) is under renewed scrutiny as a possible culprit in the Camp fire, which has devastated towns north of Sacramento, raising serious questions about the fitness of the utility's equipment and its compliance with state safety laws.

The big picture: PG&E is not alone in being unprepared for the harmful effects of a warming planet. Around the globe, many energy and fuel producers have been caught off guard this year by severe storms, anomalous temperatures and rapid changes to available water supplies.

Details: According to the latest special report from the Intergovernmental Panel on Climate Change, rising global temperatures are having serious impacts — such as coastal inundation, intensive heat and damage to coral reefs — much earlier than previously expected. As a result, damage to fuel-distribution systems, energy-generation sites, and the power grid are already occurring and will likely intensify in the coming years.

In the aftermath of Hurricane Harvey, Texas has put forward a \$12 billion request for federal assistance to build a sea wall and other infrastructure to protect oil refineries along its coast. It's unclear if Congress will provide the funds.

This past summer, nuclear plants in Sweden and Germany had to shut down operations as unusually warm ocean-water temperatures disrupted seawater-cooling systems.

A super typhoon in the town of Haiyan on China's southern coast shut down refineries and other industrial plants in September.

All these events are a clear indication that many energy companies are not prepared for increasingly grave risks to a secure and reliable energy supply.

WSJ: Truckers Back EPA Plan to Curb Emissions

The industry favors federal emissions rules over a state-by-state approach

<https://www.wsj.com/articles/truckers-back-epa-plan-to-curb-emissions-1542207602>

By Erica E. Phillips- Nov. 14, 2018 10:00 a.m. ET

LOS ANGELES—Truckers are applauding a move to create new federal rules on commercial truck emissions, saying it could help avert tougher restrictions that California is looking to impose on the business.

The Environmental Protection Agency said Tuesday it is developing a proposal for new rules that would strengthen standards for nitrogen oxide, or NOx, emissions for commercial trucks. EPA Administrator Andrew Wheeler said he aims to finalize the new rules by 2020.

The EPA's announcement comes as California regulators are pushing for a new ultralow NOx emissions standard that fleets say could present challenges to their business.

"As an industry engaged in interstate commerce, [the American Trucking Associations] strongly favors a single national emission pathway as opposed to a patchwork of state standards," ATA's head of advocacy, Bill Sullivan, said in a statement.

"The key is having clarity and lead time," said Jennifer Rumsey, chief technical officer at engine maker Cummins Inc.

Ms. Rumsey said Cummins engineers have been researching technologies that could be used in new, cleaner engines. Once the new rules are finalized, she said, those technologies can move from research to product development.

"A common set of national standards brings certainty the investments we need to make in order to achieve that," she said.

MORE ON LOGISTICS

Tanker Owners Cash In on Iran Sanctions and Trade Tensions November 12, 2018

Abu Dhabi State Fund Leads \$60 Million Funding in Logistics Software Startup November 8, 2018

BNSF Railway, Trucker J.B. Hunt Locked in Freight Revenue Dispute November 6, 2018

California's fleets have voiced particular concern over the issue. "California continuously creating its own rules makes it very difficult," said Weston LaBar, chief executive of Southern California's Harbor Trucking Association.

Mr. LaBar said trucking companies here could be at a disadvantage to those in other states. "If any of the OEMs decides not to create a California-compliant option, we have less places to buy from," Mr. LaBar said. The fewer options there are, he said, "the more ability there is for people to drive up the price."

NY Post: EPA official indicted on ethics charges in Alabama

<https://nypost.com/2018/11/14/epa-official-indicted-on-ethics-charges-in-alabama/>

By Joe Tacopino November 14, 2018 | 1:53am

An official at the Environmental Protection Agency, who was appointed by President Trump, has been indicted for violating state ethics laws in Alabama.

Trey Glenn, who is the Southeast regional director for the EPA, was charged with taking money from lobbyist during his time as director of the Alabama Department of Environmental Management, according to AL.com.

The charges against Glenn and a former business partner, Scott Phillips, include soliciting a thing of value from a principal, lobbyist or subordinate, and receiving money in addition that received in one's official capacity, the website said.

The state ethics law prohibits officials from using their office for personal financial gain and from soliciting or receiving money or other things of value.

Glenn worked for nearly five years as director of Alabama's environment department — but his tenure was plagued by numerous ethics investigations.

The Alabama Ethics Commission in 2007 found unanimously that there was probable cause Glenn violated ethics rules in taking gifts from Alabama Power Co., which his agency regulated.

He was also investigated for a personal family trip to Disney World that was paid for by a public relations firm that represented a client doing business with his agency.

Glenn was eventually cleared of criminal wrongdoing in the case and resigned from the state agency.

Green News: EPA ‘appalled’ by level of peat extraction at Westmeath site, court hears

<https://greennews.ie/epa-inspector-appaled-peat-extraction-westmeath-site-court-hears/>

Niall Sargent- November 14th, 2018

An Environmental Protection Agency inspector was “appalled” upon discovering the extraction of wet peat up to five meters deep at an unlicensed Co Westmeath site, the High Court heard yesterday.

The environmental watchdog is seeking an interlocutory injunction to prevent Harte Peat from extracting peat from the Derrycrave site pending the final outcome of an ongoing court case into unregulated peat activities by the company.

Counsel for the EPA, Niamh Hyland SC, said that the agency is seeking the injunction following the discovery in September 2018 that Harte Peat is extracting wet peat on 11 hectares (ha) at the Derrycrave site.

According to Ms Hyland, Harte Peat “has no legal remit” to carry out such activity on the site for which it has no Integrated Pollution Prevention Control (IPPC) license, no planning permission and no water discharge license.

Ms Hyland said that the activity is seen by the Agency as “highly damaging to the environment” and to be causing “irreparable damage to the raised bog”.

The site also has the potential to impact Lough Derravaragh that is a protected area for the wide range of bird species that use the lake throughout the year, Ms Hyland said.

As such, the EPA “decided that it cannot wait anymore” for the ongoing case to be heard at a yet to be determined future date, she said.

Michael McDowell SC, counsel for Harte Peat, said that the EPA’s arguments contain “unsubstantiated accusations” against his client, who has harvested at the site for over 20 years.

Mr McDowell argued that the granting of the “blanket injunction” would have “serious financial implications” for his client and would “close my client’s business in its entirety.”

Such a decision, he added, would have “extreme consequences” for the mushroom industry as Harte Peat is Ireland’s largest supplier of mushroom casing on which the industry depends to grow mushrooms year-round. An injunction at this time, he said, would effectively “put them out of business” too.

‘Down to the marl’

In an affidavit from 2 October 2018 read to the court, EPA inspector John Gibbons said that he visited the site on 21 September 2018 where he witnessed a “massive intensification of the unlicensed extraction” of peat.

Mr Gibbons’ affidavit states that he was “alerted” to the issue after The Green News contacted the EPA for comment for an article on extraction at Derrycrave published on 17 September 2018.

“I visited the site as soon as I could,” Mr Gibbons affidavit reads, and “was appalled by what I saw”.

During a subsequent visit in October 2018, an affidavit from Mr Gibbons’ states that he saw live extraction “down to the level of gravel marl” where no peat was left.

Mr Gibbons said that this is a “much more aggressive and intensive” operation than normally seen on visits to peat sites.

He said that the “entire habitat has been removed” with no substrate left on which vegetation can grow back.

‘Devastating’ for mushroom industry

In an affidavit read to the court from Sean O’Harte, the company director and operations manager said that there is “no basis for this assertion” of intensification and that there has been “no single incident of environmental pollution” identified in the past by any local or state body.

He said that an injunction would be devastating for the mushroom industry as his company is the main supplier of casings for the industry in Ireland.

In an affidavit read to the court, Monaghan Mushroom Group (MMG) founder Ronald Wilson said that the industry “relies entirely” on peat for mushroom casings and that a decision in favour of the EPA would “devastate the mushroom industry within days”.

His affidavit states that an injunction would cause “huge financial loss” to his company that has an annual turnover of over €160 million.

Ms Hyland said, however, that “such difficulties have been caused by the defendant by failing to apply for an [IPPC] license” since the company first told the EPA that it planned to do so in 2009.

“This has been going on for ten years now,” she said, adding that the “respondent cannot seek to blame the regulatory regime” for the situation it now finds itself in.

High Court environmental rights constitution Ongoing legal case

The Derrycrave site is one of several on which the EPA argues that Harte Peat is carrying out unregulated peat harvesting activities above the 50ha threshold.

Peat harvesting companies are required to obtain an IPPC licence where peat extraction is carried out in an area of land exceeding 50ha.

Peat Harte argues that the areas where it is harvesting peat are individually less than 50ha and, as such, it does not require a license.

The EPA, however, has argued that the area of land involved greatly exceeds 50 hectares when one includes all land used for the purposes of peat extraction, including access roads, storage sheds and sedimentation ponds.

The Agency also argues that the individual Harte Peat sites are within the same bogland and are thus hydraulically connected. As such, the EPA argues, all sites should be counted as one and would well exceed the 50ha threshold.

In a judgement in 2014, Ms Justice Max Barrett said that the court “struggles to believe that the man or woman in the street would consider that a business working at two bog-land sites of 26 hectares was not in truth working on 52 (i.e. 26 + 26) hectares of bogland regardless of where they are situated”.

“Thus the court concludes that if a business undertaking/entity carries out peat extraction at a number of different sites, those sites must be aggregated together for the purposes of calculating the 50ha threshold,” Mr Justice Barrett said.

Harte Peat appealed the decision and the Court of Appeal has since remitted proceedings back to the High Court for hearing.

Offer to confine activities

Prior to the commencement of proceedings yesterday, Mr McDowell said that his client was willing to “confine their activities” to just one site near Coole in Co Westmeath.

This would restrict his client’s activities to an area below 26 hectares until the court makes a determination in this “hotly contested” case, he said.

Mr Justice Charles Meehan said, however, that the injunction proceedings will “continue in the normal way” and that he would hear the EPA’s application as to the potential environmental damage caused by peat extraction at the Derrycrave site.

Proceedings will continue today at the High Court.

E&E News: More than 100 expected to testify at EPA rule hearing

<https://www.eenews.net/energywire/stories/1060106173/search?keyword=epa>

Mike Soraghan- Wednesday, November 14, 2018

Supporters and opponents of the Trump administration's proposed changes to methane rules for oil and gas will be squaring off today at a public hearing in Denver.

The rule would allow oil and gas companies to check their wells for emissions less frequently than they do under the current rule enacted during the Obama administration.

At least 125 people signed up ahead of time to speak at EPA's regional headquarters, according to a list posted online by EPA. Most speakers appear to represent environmental groups such as the Sierra Club and Moms Clean Air Force. But representatives of the American Petroleum Institute and Western Energy Alliance have also signed up to speak.

Environmentalists are expected to lambaste the administration proposal for weakening the Obama-era rule. Oil and gas industry representatives are expected to praise the effort to make the rule less onerous, but they maintain that Trump officials missed opportunities to reduce regulatory burdens further.

Sen. Michael Bennet (D-Colo.) is expected to submit testimony in support of keeping the existing rule, noting that Colorado has "aligned" methane restrictions.

"I respectfully request that you learn from the very state that you have selected to host this public hearing in today and retain the EPA methane standards in full," Bennet states in the testimony released last night. "There is so much to gain for Colorado and the country."

Under the proposal rolled out in September, operators would have to monitor wells on an annual basis and low-production operations every other year, rather than twice a year under the Obama-era rule (Energywire, Oct. 26).

The changes, which EPA calls "targeted improvements," were sought by the oil and gas industry. The agency says it's leaving broader policy issues to be handled at a later date. Those issues could include whether methane should be directly regulated.

Some oil and gas companies have taken a more pro-regulatory stance. Exxon Mobil Corp. has pledged to reduce its own methane emissions. And the head of XTO Energy Inc., an Exxon subsidiary, has voiced support for more comprehensive restrictions.

EPA says the proposed reductions in monitoring and record-keeping will save oil and gas companies \$484 million through 2025. That's much of the \$530 million the rule was expected to cost drillers.

The agency has said that higher emissions, degraded air quality, and "adverse health and welfare effects" will forgo benefits of the rule valued between \$13.5 million and \$54 million between 2019 and 2025.

A key element of the plan is allowing companies to opt out of the relaxed federal rules if they abide by their state rules. The state's rules must be deemed "equivalent." The EPA proposal grants that status to six states — California, Colorado, Ohio, Pennsylvania, Texas and Utah.

The Obama-era rule remains in place for now, requiring companies to look for leaks in their equipment and repair them promptly.

Today's session is the only public hearing EPA is planning to hold on its methane proposal. The comment period on the proposal is set to end Dec. 17.

Mic: Trump EPA Official Trey Glenn Indicted on State Ethics Charges

<https://mic.com/articles/192465/trump-epa-trey-glenn-indicted#.HxbN03C4F>

By Alison Durkee | 6m ago

The Alabama Ethics Commission announced Tuesday that current Environmental Protection Agency official Trey Glenn has been indicted for conspiring to violate Alabama's Ethics Act.

Glenn currently serves as the Southeast regional administrator leading the EPA's Region 4, which covers Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama and Mississippi. He was appointed to the position in August 2017 by former EPA head Scott Pruitt, who has since resigned amid his own ethics scandal.

A grand jury in Jefferson County, Alabama, indicted Glenn on multiple counts of conspiracy and complicity to violate Alabama's Ethics Act, including charges of using an office for personal gain; soliciting and/or receiving a "thing of value" from a principal, lobbyist or subordinate of a lobbyist; and receiving money in addition to that received in one's official capacity. The charges were filed in conjunction with a separate indictment for associate Willie Scott Phillips Jr., who was indicted for violating the Ethics Act.

The company's efforts to thwart the cleanup have been an ongoing source of controversy. Drummond Vice President David Roberson and Balch & Bingham attorney Joel Gilbert were convicted in July for their efforts to oppose the Superfund listing, including convictions for wire fraud, money laundering and bribing former state Rep. Oliver Robinson. Both Glenn and Phillips testified during the trial about their role in the Drummond Company's efforts.

Environmental groups have asked Glenn to recuse himself from the cleanup efforts in North Birmingham in his EPA role, citing his potential conflicts of interest from his involvement with the Drummond Company.

Even before the Superfund controversy, however, Glenn was no stranger to ethics charges. The now-EPA administrator previously came under fire while serving as the director of the Alabama Department of Environmental Management, where he was the subject of a year-long ethics investigation concerning his previous job leading Alabama's Office of Water Resources. A 2007 ethics complaint alleged that a public relations firm, which represented a firm that did work for the Office of Water Resources, paid for private flights for Glenn and his family to travel to Walt Disney World and Hilton Head, South Carolina. A grand jury declined to indict Glenn on those charges.

Glenn defended himself against the indictment in a statement released on Tuesday, calling the charges against him "unfounded."

"My family and I continue to appreciate the overwhelming support from our friends and the community," Glenn said. "The charges against me are totally unfounded, and will be vigorously defended. I am innocent and expect to be fully vindicated."

NOLA: Donald Trump's southeast regional EPA administrator indicted on Alabama ethics charges

https://www.nola.com/national_politics/2018/11/donald-trumps-southeast-regional-epa-administrator-indicted-on-alabama-ethics-charges.html

By Kyle Whitmire- Updated 1:08 PM; Posted 1:08 PM

EPA Region 4 Administrator, at 2017 Trump appointee, has been indicted by a Jefferson County, Alabama, grand jury for ethics violations, along with his former business partner, former Alabama Environmental Management Commissioner Scott Phillips.

A Jefferson County, Alabama, grand jury has indicted the Southeast regional administrator of the Environmental Protection Agency and a former Alabama Environmental Management Commissioner for violating state ethics laws.

Charges include multiple violations of Alabama's Ethics Act, including soliciting a thing of value from a principal, lobbyist or subordinate, and receiving money in addition that received in one's official capacity, according to the Alabama Ethics Commission.

Before being appointed by President Donald Trump to serve as the Region 4 administrator of the EPA, Trey Glenn worked closely with the Birmingham-based law firm Balch & Bingham and one of its clients, Drummond Co., to fight EPA efforts to test and clean up neighborhoods in north Birmingham and Tarrant.

Charges against EPA chief, state regulator are shocking

I never dreamed they'd face the music in Alabama. I thought for sure judgment would come for Phillips and Glenn only at the Pearly Gates, where St. Peter would decide whether to send them toward a brownfield down below.

Likewise, former Alabama Environmental Management Commissioner Scott Phillips worked with Balch to oppose the EPA. Phillips and Glenn worked together in a company they co-owned, Southeast Engineering & Consulting, at the same time Phillips served on the commission.

Under Alabama ethics law, it is illegal for a lobbyist or a lobbyist's client, called a principal, to give a public official a thing of value, including a job.

Who is Trey Glenn? Trump EPA administrator indicted in Alabama has history of ethics issues

Glenn has a history of entanglements with Alabama's state ethics laws.

President Donald Trump appointed Glenn lead EPA's Region 4 in August 2017, after incidents covered in the indictment. That region includes Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama and Mississippi.

The indictment is not Glenn's first brush with Alabama ethics laws. In 2007, the Alabama Ethics Commission referred a complaint against Glenn, who then served as director of the Alabama Department of Environmental Management, to the Montgomery County District Attorney's office for prosecution.

Controversial former Alabama environmental agency head named EPA Region 4 Administrator

Trey Glenn resigned from Alabama environmental agency after ethics investigation and is a registered lobbyist.

However, in 2008, a Montgomery County grand jury declined to indict Glenn on those charges.

After leaving ADEM in 2009, Glenn co-founded SE&C with Phillips and served as a lobbyist for the Business Council of Alabama.

After he was appointed to the EPA position, Glenn reported income from numerous public and private entities, including the BCA, City of Birmingham, Birmingham Jefferson County Transit Authority, Matrix LLC, Blue Ridge Partners, Strada and Big Sky Environmental.

Big Sky Environmental made headlines this year after it accepted human feces from New York for disposal at its Adamsville landfill. A train that delivered that refuse stunk up the surrounding community and after national news coverage became known as the “poop train.”

After accepting his appointment at the EPA, Glenn recused himself from north Birmingham environmental issues for one year. Environmental activists and nonprofit watchdog groups have asked Glenn to recuse himself permanently.

EPA region chief up to his eyeballs in Alabama bribery trial

One of the biggest mysteries in this case has been solved. And it's ugly.

Witnesses at trial

In July, a jury in federal court convicted Balch partner Joel Gilbert and Drummond vice president David Roberson on charges they bribed an Alabama lawmaker, Oliver Robinson, to help fight the EPA’s cleanup efforts in Tarrant and north Birmingham.

From 2014 through 2017, Glenn and Phillips worked with those defendants to oppose the EPA efforts, court exhibits and trial testimony showed.

During that trial, prosecutors called Glenn and Phillips as witnesses. Court documents and testimony, in that case, showed that they had worked closely with Balch to push back on the EPA as recently as 2017.

One exhibit in that trial showed that Phillips proposed to “hijack” a north Birmingham community organization that had been working with the EPA to clean up neighborhoods there. During his testimony, Phillips said that by “hijack” he meant “work with.”

Dirty Business: How Alabama conspired against its own people

Political elites worked with polluters to leave poisons in the soil of some of Birmingham's most vulnerable neighborhoods.

In the same exhibit, a PowerPoint slideshow Phillips' company had prepared for Balch, Phillips proposed to “undermine” and “fragment” proponents of the north Birmingham cleanup.

On the witness stand in that trial, Phillips denied knowing that Robinson, a state lawmaker, was being paid by Balch — something even defense attorneys didn’t seem to believe. On cross-examination, defense counsel showed Phillips a memo written to him in 2014 proposing “maybe Oliver Robinson” be hired for community outreach work in north Birmingham.

At the same time Phillips performed this work for Balch and Drummond, he served on the Alabama Environmental Management Commission, which oversees the Alabama Department of Environmental Management.

On the AEMC, Phillips sat for meetings on north Birmingham environmental issues, including a 2015 meeting where Robinson spoke against EPA cleanup efforts in north Birmingham.

While serving on the AEMC, Phillips forwarded an advance copy of a presentation by the environmental watchdog group GASP to Glenn, who then forwarded those materials to Gilbert at Balch, trial testimony revealed.

Testimony in that trial also revealed that Phillips helped make introductions for Robinson, including a dinner in which Robinson met with AEMC chairman Lanier Brown to discuss north Birmingham issues.

In the wake of the federal corruption trial, Birmingham Mayor Randall Woodfin, Rep. Terri Sewell and Sen. Doug Jones have asked the EPA to put the north Birmingham Superfund site on its National Priorities List, a regulatory distinction that would open up more money for cleanup and potentially require area polluters to help pay for cleanup costs.

The Alabama Ethics Commission lead the investigation after being asked for help by the Jefferson County District Attorney's office.

"The Alabama Ethics Commission is committed to working with Alabama's District Attorneys, and all enforcement agencies, whenever needed and asked to do so, to ensure enforcement of Alabama's Ethics laws on behalf of the citizens of Alabama; and these indictments are evidence of that," Alabama Ethics Commission Director Tom Albritton said in a press release. "I want to recognize the hard work from the Jefferson County DA's office which requested our assistance in this important matter; and from our office, Cynthia Raulston, the Commission's General Counsel, as well as Special Agents Dustin Lansford, Byron Butler and Chief Special Agent Chris Clark for their hard work and dedication to the enforcement of our Ethics laws."

In separate written statements sent by an employee of the Melton Espy law firm from a personal email account, Phillips and Glenn proclaimed their innocence and vowed to fight the charges against them. A message left for attorney Joe Espy seeking comment was not returned.

Think Progress: Alabama grand jury indicts Trump's regional EPA administrator on ethics charges

Former EPA chief Scott Pruitt selected Trey Glenn to head the agency's southeastern office.

<https://thinkprogress.org/epa-regional-administrator-indicted-on-ethics-charges-in-alabama-bribery-scheme-e94720e2a970/>

MARK HAND- NOV 14, 2018, 1:00 PM

The head of the Environmental Protection Agency's (EPA) southeastern regional office has been indicted on state ethics charges in Alabama related to his alleged efforts to stop a polluted neighborhood in North Birmingham from being listed on the EPA's priorities list for contaminated sites.

Last Friday, a Jefferson County, Alabama, grand jury indicted both EPA Region 4 Administrator Trey Glenn and his former business associate Scott Phillips on ethics charges. The indictments center around previous work the two performed as consultants to stop the 35th Avenue site from being listed on the EPA's Superfund National Priorities List (NPL), according to AL.com.

Prior to joining the Trump administration, Glenn faced numerous controversies while running Alabama's state environmental agency and as a private consultant.

In 2017, former EPA Administrator Scott Pruitt selected Glenn to head the agency's Region 4, which oversees the agency's operations in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. He was sworn into office in August 2017.

In a statement announcing the appointment, Pruitt said Glenn "will help us carry out President Trump's vision of creating a more streamlined and efficient EPA that focuses on the Agency's core mission, while also providing more regulatory certainty to our nation's businesses."

Citing a news release issued by the Alabama Ethics Commission, E&E News reported Tuesday that the charges against Glenn include conspiracy to break ethics law with Phillips, who sat on the board of Alabama's environmental agency before stepping down last year.

Other alleged violations include soliciting a thing of value "from a principal, lobbyist or subordinate, and receiving money in addition to that received in one's official capacity," the release said.

The EPA had not responded to a request for comment from ThinkProgress at the time this article was published.

During their time at Southeast Engineering and Consulting LLP, Phillips and Glenn worked as consultants for coal firm Drummond Company, in connection with law firm Balch & Bingham, in their efforts to oppose the listing of the neighborhood on the EPA's Superfund NPL.

Drummond Vice President David Roberson and Balch & Bingham attorney Joel Gilbert were convicted of bribery, money laundering, and other charges in relation to efforts to oppose the listing, which included paying a state lawmaker — former Alabama state Rep. Oliver Robinson (D) — to encourage people not to get their soil tested to see if it contained high levels of contaminants.

In October, Gilbert was sentenced to five years in federal prison, followed by a supervised release period of two years, AL.com reported. Roberson was sentenced to two-and-a-half years in prison, followed by one year of supervised release. Each was ordered to pay a \$25,000 fine, and ordered to complete 100 hours per year of community service while on supervised release.

A view of the city of Birmingham, Alabama, showing its downtown area and a number of smoking steel mills. CREDIT: Charles Rotkin/Corbis/VCG via Getty Images

Alabama coal exec, lawyer found guilty of bribing politician to oppose EPA Superfund cleanup

Starting in 2013, the EPA was investigating the neighborhood for potential listing on the NPL to receive priority funding for Superfund cleanup of contaminated soil in poor residential neighborhoods largely populated by African Americans surrounded by numerous heavy industrial operations.

The EPA named five industries, including Drummond Company, as potentially responsible parties that could be forced to pay for the cleanup. Drummond, through law firm Balch & Bingham, hired a company run by Glenn and Phillips as consultants to assist in their efforts to defeat the proposed listing of the Superfund site.

Glenn previously headed the Alabama Department of Environmental Management. After leaving the state environmental agency, Glenn worked as a consultant for a number of industries.

An Alabama newspaper columnist described the selection of Glenn to head the EPA's southeastern regional office as "downright Orwellian." Glenn is known for having pulled back on enforcing environmental laws in a state already beset with pollution and environmental justice issues. He has also faced other ethics investigations during his career as an Alabama government employee.

An ethics complaint in 2007, for example, alleged Glenn and his family traveled to Walt Disney World and Hilton Head, South Carolina on private flights paid for by public relations firm Matrix, while Glenn worked for the Alabama Office of Water Resources prior to taking over as director of the Alabama Department of Environmental Management, according to AL.com. Matrix represented Malcolm Pirnie, an environmental engineering firm that did work for the Alabama Office of Water Resources.

Glenn's "obliviousness to ethics and decorum" prompted a former Alabama Department of Environmental Management lawyer in 2007 to push for a policy to teach him "right from wrong" and to demand that he stop accepting gifts while he served as director of the department. John Archibald, a columnist for the Alabama Media Group, wrote last August, "since the director apparently does not have the good judgment to avoid the appearance of impropriety."

Axios: After EPA rollback, a compromise on car standards could be in sight

Cars drive over the Golden Gate Bridge on August 2, 2018 in Sausalito, California.

<https://www.axios.com/after-epa-rollback-a-compromise-on-car-standards-could-be-in-sight-68174c2a-378d-4903-a901-009552faeb3b.html>

John DeCicco- 1 hour ago

Last April, the Trump administration set the stage for a legal battle with California by nullifying the Obama administration's clean-car regulatory plan. Instead of requiring new vehicles to score an average of nearly 50 miles per gallon on lab tests by 2025, standards would flatline after 2020.

What's new: Formal public reaction to this plan was due on Oct. 26, and the comments show that none of the major stakeholders supports the administration's proposal. While the prospect of a compromise long looked slim, it now appears that the makings of a deal might be on the table.

The key parties:

California, allied states and major green groups have prepared to defend existing targets, with the Environmental Defense Fund calling the administration's proposal "arbitrary, capricious and illegal."

Automakers started this fight and praise the administration for reversing the Obama-era decisions. But even they say the proposal is too weak, and want to keep the peace by compromising on a single, national program that still offers regulatory relief.

Automakers have been vague about their preferred targets, stipulating only that they be in line with market realities. California has said it's open to greater flexibility, but insists on strong progress toward long-term greenhouse gas reduction goals, including rapid electrification of the state's vehicle fleet.

Between the lines: The key to a compromise may lie in regulatory credits. These would enable automakers to meet standards that look increasingly stringent on paper despite being weaker in practice. Such credits would give companies extra "brownie points" for adding popular technologies to their cars, whether or not they actually cut emissions.

The Auto Alliance calls for a "significant expansion" of credits for plug-in hybrid electric and battery electric vehicles as well as additional credits for gasoline-only hybrids across the entire fleet.

Automakers also want a raft of new credits for assorted safety technologies they claim will save fuel, such as driver assistance and automation features.

The bottom line: As proposed, many of the automakers' recommendations won't work for California and its allies. But if the parties can strike a deal that sets federal standards closer to the Obama administration's, allows California to keep authority to set its own and includes extra credits (especially for electric vehicles), they might be able to avoid a lengthy court battle with high risks for both sides.